

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

STEVEN ANDREW BELL,

Plaintiff,

v.

CASE NO. 18-3276-SAC

**N.C. ENGLISH, Warden,
USP-Leavenworth, et al.,**

Defendants.

MEMORANDUM AND ORDER

Plaintiff proceeds pro se and in forma pauperis in this prisoner civil rights action. On December 4, 2018, the Court entered a Memorandum and Order and Order to Show Cause (Doc. 13) (“MOSC”), granting Plaintiff until December 21, 2018, in which to show good cause why Plaintiff’s Complaint (Doc. 1) should not be dismissed for the reasons stated in the MOSC. Plaintiff was also granted until December 21, 2018, in which to file a complete and proper amended complaint to cure all the deficiencies set forth in the MOSC. Plaintiff has failed to respond to the MOSC.

In the MOSC, the Court noted that Plaintiff was transferred to a halfway house, rendering his request for injunctive relief moot. The Court also noted that Plaintiff’s request for compensatory damages is barred by 42 U.S.C. § 1997e(e), because Plaintiff has failed to allege a physical injury. Section 1997e(e) provides in pertinent part that “[n]o Federal civil action may be brought by a prisoner confined in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury.” 42 U.S.C. § 1997e(e). The Court also found that Plaintiff presents no plausible basis for a claim of punitive damages because he alleges no facts whatsoever establishing that any defendant acted with a sufficiently culpable state of mind. Plaintiff’s request for punitive damages is subject to

dismissal. The Court also directed Plaintiff to show cause why his Complaint should not be dismissed for failure to exhaust available administrative remedies before filing this action.

The MOSC provides that “[i]f Plaintiff does not file an amended complaint within the prescribed time that cures all the deficiencies discussed herein, this matter will be decided based upon the current deficient Complaint.” Plaintiff has failed to respond to the MOSC within the allowed time. The Court finds that this case should be dismissed for the reasons set forth in the MOSC.

IT IS THEREFORE ORDERED BY THE COURT that this case is dismissed for failure to state a claim.

IT IS SO ORDERED.

Dated in Topeka, Kansas, on this 28th day of December, 2018.

S/ Sam A. Crow
SAM A. CROW
SENIOR U. S. DISTRICT JUDGE